

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

BOARD FOR

THE CONDEMNATION OF INSANITARY BUILDINGS

NOTICE OF PUBLIC INTEREST

The Director of the Department of Consumer and Regulatory Affairs, in accordance with section 742 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, as amended, D.C. Code section 1-1504 (1999 Repl.), hereby gives notice that the Board for the Condemnation of Insanitary Buildings' (BCIB) regular meetings will be held on the dates listed below for calendar year 2005, (the second and fourth Wednesday of each month). The meetings will begin at 10:00 a.m. in Room 7221 of 941 North Capitol Street, NW, Washington, D.C. 20002.

2005

January 12th
January 26th

July 13th
July 27th

February 9th
February 23rd

August 10th
August 24th

March 9th
March 23rd

September 14th
September 28th

April 13th
April 27th

October 12th
October 26th

May 11th
May 25th

November 9th
November 23rd

June 8th
June 22nd

December 14th
December 28th

* * * * *

These regularly scheduled meetings of the BCIB are open to the public. Please call the Building Condemnation Division on (202) 442-4322 or 442-4486 for further information or for changes in this schedule.

**BOARD OF ELECTIONS AND ETHICS
CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in **sixteen (16)** Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed.

VACANT: **1A11, 1D06**
 3B04, 3D03, 3D07,
 4D05
 5B05, 5C11,
 6B11
 8A05, 8B03, 8B05, 8C05, 8C06, 8E01, 8E06

Petition Circulation Period: **Monday, January 3, 2005 thru Monday, January 24, 2004**

Petition Challenge Period: **Thursday, January 27, 2004 thru Wednesday, February 2, 2004**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N**

For more information, the public may call **727-2525**.

District of Columbia Energy Office**Environmental Sustainable Solutions Division
Request for Applications RFA****Notice of Funds Availability****District of Columbia Renewable Demonstration Project****Introduction**

The District of Columbia Renewable Energy Demonstration Project (REDP) has been developed to increase the awareness and the use of renewable electricity generation technologies by District of Columbia residents, businesses, and institutions.

The DC REDP will provide qualified applicants up to 50% of the costs associated with implementing a mechanism to produce electricity using a renewable source of fuel.

Grant Awards and Amounts

A total of \$180,000 is available to fund projects not to exceed 50% of the total cost associated with the project. These grant funds must be used for any item that is pertinent to the electric generating apparatus fueled by a renewable reuse. That list may include equipment, labor, permits, construction cost, materials, etc.

Target Population

The target population for the Renewable Energy Project is the residents, businesses, and institutions in the District of Columbia.

Eligible Organizations/Entities

The following organizations/entities are eligible to apply for federal grant funds under this Request for Application:

- Individuals
- Organizations
- Businesses
- Schools
- Public Agencies

Eligible projects include any renewable electricity generation facility that will be located within the District of Columbia where construction has not begun. Each applicant should provide evidence to show that it is established and has a recent history of demonstrated accomplishments in similar realms and evidence of structure, resources and management

procedures sufficient to implement the proposed project and provide project accountability. Collaborations/coalitions are encouraged to apply for these funds, but must submit the appropriate number of Collaboration/Partner Commitment Forms.

Award Period

The grant awards will be for a period of one (1) year from date of award. Provided the applicant successfully meets the performance objectives, DCEO may extend the terms of this grant. The total duration of this grant, including any continuations under this provision, shall not exceed three years.

Contact Person

For further information and paper work pick-up, please contact:

Tomaysa Sterling
Chief, Environmental Sustainable Solutions (ESS)
DC Energy Office
2000 14th Street, N.W.
Suite 300 East
Washington, DC 20009
202-671-1403 Office

Time line

Pre-Submission Conference	February 1, 2005
Deadline for submissions	February 25, 2005
Proposal Evaluation	February 28 – March 3, 2005
Awardee Selection	March 23 – March 24, 2005
Notification of Award	March 23, 2005
Dissemination of Award	April 14, 2005

Explanations to Prospective Applicants

Applicants with questions pertaining to the RFA are encouraged to contact the person listed above on or after December 31, 2004.

**DISTRICT OF COLUMBIA HOUSING AUTHORITY
BOARD OF COMMISSIONERS**

1133 NORTH CAPITOL STREET, NORTHEAST
WASHINGTON, D.C. 20002-7599
202-535-1500

NOTICE OF PUBLIC MEETINGS

THE REGULAR MEETINGS OF THE BOARD OF COMMISSIONERS OF THE DISTRICT OF COLUMBIA HOUSING AUTHORITY ARE HELD IN OPEN SESSION ON THE SECOND WEDNESDAY OF EACH MONTH. THE DATES AND TIMES OF THE MEETINGS FOR THE YEAR 2005 FOLLOWS.

January 12, 2005	1:00 p.m.
February 9, 2005	1:00 p.m.
March 9, 2005	1:00 p.m.
April 13, 2005	1:00 p.m.
May 11, 2005	1:00 p.m.
June 8, 2005	1:00 p.m.
July 13, 2005	1:00 p.m.
August 10, 2005	1:00 p.m.
September 14, 2005	1:00 p.m.
October 12, 2005	1:00 p.m.
November 9, 2005	1:00 p.m.
December 14, 2005	1:00 p.m.

A copy of the draft agenda for each meeting is posted in the lobby at 1133 North Capitol Street, N.E.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Executive Office of the Mayor

OFFICE OF PARTNERSHIPS AND GRANTS DEVELOPMENT

FOURTH QUARTER REPORT FOR FY 2004 ON DONATIONS APPROVED BY OPGD

Pursuant to Mayor's Order 2002-2 dated January 11, 2002, the Director of the Office of Partnerships and Grants Development (OPGD), in consultation with the D.C. Ethics Counselor, is publishing the District's Third Quarter Report on Donations for Fiscal Year 2004. The Order requires the OPGD Director to review all requests by District officials to solicit or accept donations and approve or disapprove such requests as appropriate in accordance with the Rules of Conduct Governing Donations (Mayor's Memorandum 2002-1) and Section 115 of the 2003 D.C. Appropriations Act. This report includes data on all donation requests submitted to the Director for the period beginning July 1, 2004 and ending September 30, 2004. During this period, the OPGD Director approved the acceptance of \$ 1,057,962.69 in donations of which \$332,527.42 represented financial contributions, and \$725,435.27 represented in-kind contributions. Please contact the OPGD Director at (202) 727-8900 for more details on the report.

District Recipient	Donor	Donation Information	Approval Date
Commission on the Arts and Humanities	Museum of Bags	Financial donation of \$5,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04
Commission on the Arts and Humanities	Golden Triangle BID, Corp.	Financial donation of \$6,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04
Commission on the Arts and Humanities	Calvert Asset Management Co., Inc	Financial donation of \$10,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04
Commission on the Arts and Humanities	Washington Marriott	Financial donation of \$3,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04
Commission on the Arts and Humanities	DC Chamber of Commerce	Financial donation of \$3,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04
Commission on the Arts and Humanities	America Online	Financial donation of \$5,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04
Commission on the Arts and Humanities	Clyde's Restaurant Group/Walrus Corp.	Financial donation of \$2,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04
Commission on the Arts and Humanities	Interstate Worldwide Relocation	Financial donation of \$6,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04
Commission on the Arts and Humanities	Banana Café	Financial donation of \$2,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04

District Recipient	Donor	Donation Information	Approval Date
Commission on the Arts and Humanities	Hilton Hotels Corp.	Financial donation of \$3,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-20-04
Commission on the Arts and Humanities	Willard Associates/Richard Carr	Financial donation of \$5,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04
Commission on the Arts and Humanities	National Museum of Women in the Arts	Financial donation of \$2,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-29-04
Commission on the Arts and Humanities	Four Seasons Hotel	Financial donation of \$3,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-20-04
Commission on the Arts and Humanities	Adams National Bank	Financial donation of \$2,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-20-04
Commission on the Arts and Humanities	May Department Store, Co.	Financial donations of \$5,000 to support the Pandamania Public Arts Project	Authority to accept the donation approved on 9-20-04
Child and Family Services Agency	Christine Kaudner	In kind donation of 88 toiletry bags valued at \$650	Authority to accept the donation approved on 7-22-04
Child and Family Services Agency	Rebecca Sudduth	In kind donation of 2 suitcases valued at \$20	Authority to accept the donation approved on 7-6-04
Child and Family Services Agency	Linen and Things	In kind donation of 4 drawer chest valued at \$75	Authority to accept the donation approved on 7-12-04
Child and Family Services Agency	Vicki Turetsky	In kind donation of clothing and magazines valued at \$300	Authority to accept the donation approved on 7-7-04
Child and Family Services Agency	Marcus Smoot	In kind donation of clothing valued at \$1,000	Authority to accept the donation approved on 7-6-04
Child and Family Services Agency	Christa Randall	In kind donation of clothing valued at \$300	Authority to accept the donation approved on 7-22-04
Child and Family Services Agency	Jill Singer	In kind donation of clothing valued at \$800	Authority to accept the donation approved on 7-9-04
Child and Family Services Agency	Bailey Law Group	In kind donation of office supplies valued at \$100	Authority to accept the donation approved on 7-8-04
Child and Family Services Agency	Congressional Hispanic Caucus Institute	Financial donation to purchase school supplies for the Back-to-School Fun Day valued at \$585.92	Authority to accept the donation approved on 8-31-04
Department of Corrections	The Academy of State and Local Government	In kind donation of the West Federal Report Series of Law Book Volumes from 1980 to 2004 valued at \$35,000	Authority to accept the donation approved on 9-20-04
District of Columbia Public Library	Carol Wansong	In kind donation of books valued at \$400	Authority to accept the donation approved on 8-2-04
District of Columbia Public Library	Sarah Briggs	In kind donation of 36 books valued at \$30	Authority to accept the donation approved on 8-12-04
District of Columbia Public Library	Gay Miller	In kind donation of 64 books valued at \$145	Authority to accept the donation approved on 8-12-04
District of Columbia Public Library	Renee Brereton	In kind donation of 40 paperback books valued at \$90	Authority to accept the donation approved on 8-12-04

District Recipient	Donor	Donation Information	Approval Date
District of Columbia Public Library	Mark Evans	In kind donation of 46 playing records valued at \$200	Authority to accept the donation approved on 8-12-04
District of Columbia Public Library	Pat Whitty	In kind donation of 60 books valued at \$250	Authority to accept the donation approved on 8-6-04
District of Columbia Public Library	Johanna Anderson	In kind donation of books valued at \$145	Authority to accept the donation approved on 8-12-04
District of Columbia Public Library	Carol Wansong	In kind donation of books valued at \$400	Authority to accept the donation approved on 8-12-04
District of Columbia Public Library	Suzanne Hurwitz	Financial donation of \$200 to support children's programs and craft workshops	Authority to accept the donation approved on 8-25-04
District of Columbia Public Library	Ava H. Berland	In kind donation of 11 books valued at \$6	Authority to accept the donation approved on 8-25-04
District of Columbia Public Library	Shelah Leader	In kind donation of 324 books valued at \$282	Authority to accept the donation approved on 8-24-04
District of Columbia Public Library	Dorothee Giroux	In kind donation of 23 books valued at \$55	Authority to accept the donation approved on 8-24-04
District of Columbia Public Library	Tommie Moss	In kind donation of 42 books valued at \$50	Authority to accept the donation approved on 8-24-04
District of Columbia Public Library	Barbara Jones	In kind donation of books valued at \$200	Authority to accept the donation approved on 8-24-04
District of Columbia Public Library	Maria Alvarez	In kind donation of books valued at \$50	Authority to accept the donation approved on 8-24-04
Department of Human Services	Jones Memorial United Methodist Church	In kind donation of clothing, bedding valued at \$200 for the Strong Families Program	Authority to accept the donation approved on 8-2-04
Department of Human Services	Mary Urquhart	In kind donation of 9 back packs and notebooks for the Weekend Family Retreat valued at \$80 for the Strong Families Program	Authority to accept the donation approved on 8-11-04
Department of Human Services	Suzanne Baskerville	In kind donation of book bags for the Weekend Family Retreat valued at \$70 for the Strong Families Program	Authority to accept the donation approved on 8-12-04
Department of Human Services	Dale Williams	In kind donation of school supplies for the Weekend Family Retreat valued at \$100 for the Strong Families Program	Authority to accept the donation approved on 8-12-04
Department of Human Services	Greater Washington Urban League	In kind donation of facilitation services for 2 DHS workshops for a Weekend Family Retreat on August 14 th valued at \$300	Authority to accept the donation approved on 8-11-04
Department of Employment Services	U.S. Chamber of Commerce	Financial donation of \$1,000 to support the Summer Youth Employment Program	Authority to accept the donation approved on 8-16-04
Department of Employment Services	AFGE Local No. 12	Financial donation of \$250 to support the Summer Youth Employment Program	Authority to accept the donation approved on 9-21-04
Department of Employment Services	Venable LLP.	Financial donation of \$1,000 to support the Summer Youth Employment Program	Authority to accept the donation approved on 7-19-04
Department of Employment Services	Fannie C. Booth	Financial donation of \$25 to support the Summer Youth Employment Program	Authority to accept the donation approved on 7-19-04
Department of Employment Services	Florenza Lassiter	Financial donation of \$25 to support the Summer Youth Employment Program	Authority to accept the donation approved on 7-19-04

District Recipient	Donor	Donation Information	Approval Date
Department of Employment Services	Marshall's Funeral Home Inc.	Financial donation of \$1,000 to support the Summer Youth Employment Program	Authority to accept the donation approved on 7-19-04
Department of Employment Services	Verizon	Financial donation of \$59,221.50 to support the Summer Youth Employment Program	Authority to accept the donation approved on 8-16-04
Department of Employment Services	David Joe Lewis	Financial donation of \$3,000 to support the Summer Youth Employment Program	Authority to accept the donation approved on 8-05-04
Department of Transportation	International Monetary Fund	Financial donation of \$98,220 for the replacement of diseased trees and installation of new ones	Authority to accept the donation approved on 8-5-04
Executive Office of the Mayor	National League of Cities	In kind donation to pay for the Mayor's airfare and lodging to attend the South Carolina Municipal League Convention in Hilton Head, South Carolina (July 16 th - 17 th) valued at \$1,657.45	Authority to accept the donation approved on 7-15-04
Executive Office of the Mayor	National Associations of Counties	In kind donation for overnight hotel expenses for the Mayor to attend the Annual National Association of Counties Conference as the keynote speaker (July 17 th - 18 th) in Phoenix, Arizona valued at \$250.00	Authority to accept the donation approved on 7-8-04
Executive Office of the Mayor	The Mayors' Institute on City Design	In kind donation for travel and lodging expenses for the Mayor to attend the 34 th National Session of the Mayor's Institute in Charleston, South Carolina (Sept. 15 th - 17 th) valued at \$977	Authority to accept the donation approved on 9-16-04
Executive Office of the Mayor	National League of Cities	In kind donation for travel expenses for the Mayor to attend the NLC Board Meeting in Boston, Mass., (July 7 th) valued at \$459.70	Authority to accept the donation approved on 7-01-04
Executive Office of the Mayor	Washington Convention and Tourism Corp.	In kind donation for travel expenses for the Mayor to attend the American Society of Association Executives Conference in Minneapolis, Minn., (Aug. 15 th - 16 th) valued at \$1100	Authority to accept the donation approved on 8-15-04
Executive Office of the Mayor	National League of Cities	In kind donation for the Mayor's travel expenses to attend the National Black Caucus of Local Elected Officials Summer Conference and Board Meeting in Cleveland, Ohio (Aug. 19 th - 20 th) valued at \$812.20	Authority to accept the donation approved on 8-19-04
Executive Office of the Mayor	National League of Cities	In kind donation to cover travel expenses for the Mayor to attend the National League of Cities Education Forum in Orlando, Florida (July 12 th) valued at \$262.10	Authority to accept the donation approved on 7-8-04
Executive Office of the Mayor	Suzanne Rittenhouse	In kind donation to facilitate teambuilding exercise at the Office of Partnerships and Grants Development's staff retreat (July 7 th) valued at \$500	Authority to accept the donation approved on 7-6-04
Executive Office of the Mayor	The Washington Area New Automobile Dealers Association	In kind donation to pay for the Mayor's travel expenses to attend the <i>Mondial de l'Automobile</i> Show in Paris, France (Sept. 22 nd to 24 th) valued at \$3,380.82	Authority to accept the donation approved on 9-20-04
Executive Office of the Mayor	Asian American League	In kind donation of food for the APIA's Youth Workshop valued at \$360	Authority to solicit the donation approved on 8/02/04
Fire and Emergency Medical Services	AFLAC Insurance Co.	In kind donation of smoke alarms for the DC FEMS smoke alarm give away program valued at \$1,000	Authority to accept the donation approved on 8-3-04
Fire and Emergency Medical Services	First Alert	In kind donation of smoke alarms for the DC FEMS smoke alarm give away program valued at \$4,500	Authority to accept the donation approved on 9-30-04

District Recipient	Donor	Donation Information	Approval Date
Fire and Emergency Medical Services	Walter Dennis Lipscomb	Financial donation of \$1,000 to support training of FEMS personnel	Authority to accept the donation approved on 9-7-04
Parks and Recreation	KaBoom Inc.	In kind donation of playground equipment for the Sursum Corda Court Housing Development valued at \$15,000	Authority to accept the donation approved on 7-22-04
Parks and Recreation	National Capital Police Fund	In kind donation of playground and fencing hardware for Sursum Corda Housing Development valued at \$4,500	Authority to accept the donation approved on 7-22-04
Parks and Recreation	Verizon Washington, DC	In kind donation of computer and telecommunications equipment at 8 recreation centers valued at \$200,000	Authority to accept the donation approved on 7-15-04
Metropolitan Police Department	National Capital Police Fund	Financial donation of \$103,000 to support undercover burglary operations, auto thefts, and juvenile rehabilitation	Authority to accept the donation approved on 8-19-04
Metropolitan Police Department	International Monetary Fund	In kind donation of 200 used office chairs of which the depreciated value is zero.	Authority to accept the donation approved on 7-10-04
State Education Office	Comcast	In kind donation -- internet and Ethernet access at the Centers -- to support the DC Adult Lifelong Learning Initiative valued at \$449,378	Authority to accept the donation approved on 8-04-04
State Education Office	Alula Abera	Financial donation of \$2000 to support the DC Tuition Assistance Grant Program	Authority to accept the donation approved on 7-29-04

DISTRICT OF COLUMBIA BOARD OF NURSING
ADVISORY OPINION ON THE ROLE
OF THE REGISTERED NURSE AS FIRST ASSISTANT ("RNFA")

On December 1, 2004 at its regularly scheduled monthly meeting the Board of Nursing the drafted an advisory opinion on the role of the registered nurse as a first assistant. The Board has determined that it is within the scope of practice of a registered nurse to serve in the role of first assistant in the perioperative arena.

Prerequisites:

In order to qualify as a first assistant the registered nurse must satisfy the following prerequisites:

- (a) Have a current, active license in the District of Columbia;
- (b) Have certification in perioperative nursing from the Certification Board of Perioperative Nursing; and
- (c) Hold a current certification in Basic Life Support.

Scope of Practice:

The RNFA functions include pre-operative patient assessment, patient teaching and staff teaching. The RNFA intra-operative functions include, but are not limited to: positioning, prepping and draping; aiding in exposure; retraction; homeostasis; use and handling of surgical instrumentation; and, tissue handling including dissecting, suturing, tying, stapling, and stab wound (nick) for laparoscopy surgery or drains. The RNFA post-operative functions include patient evaluation of diagnostic and/or laboratory studies and resource for patient pain management.

The RNFA may receive clinical privileges to practice as a RNFA via the facility's credentialing process or may be an employee of the facility. In either instance the RNFA shall function under a facility and/or employer written job description delineating the assigned responsibilities in the pre-operative, intraoperative and post-operative arena. In either instance, the facility or employer shall have a process for evaluating and documenting the continued competency of the RNFA to perform in this role. In addition to all previous stated requirements and responsibilities, the job description shall specifically identify:

- (a) Facility protocols, when appropriate;
- (b) Protocols to be followed in the event of an emergency;

- (c) The required physical presence of the attending surgeon in the surgical suite where the case is being performed until the patient leaves the operating room and;
- (d) The right and responsibility of the RNFA to refuse to perform any act that is beyond their education, experience and capabilities.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

**NOTICE OF AVAILABILITY OF APPLICATION GUIDELINES
& APPLICATION REVIEW PROCESS TIMELINE**

The District of Columbia Public Charter School Board hereby gives notice of the availability on January 10, 2005 of guidelines for preparing and submitting applications to establish and operate a public charter school in the District of Columbia. The guidelines set a deadline of March 28, 2005 for the Board's receipt of applications and establish criteria for the evaluation of applicants' plans for establishing and operating a public charter school. The Board is authorized to approve up to 10 charter awards in any given year.

The Application Review Process Timeline is as follows:

2005

January 10	Release Application Guidelines
January 26, February 10	Public information meetings
March 28	First-Stage applications due
	Parental conversion endorsement signatures due for students enrolled in Spring 2005
May 16-17	Public hearing
June 20	Board First-Stage decisions announced publicly
July - August	Feedback sessions with charter applicants
September	Begin negotiation of charters with applicants whose applications were approved
September 30	Parental conversion endorsement signatures due for students enrolled in Fall 2005
Mid- to Late September	Second-Stage applications due
October 17	Board Second-Stage decisions publicly announced

A copy of the Application Guidelines may be requested by contacting the District of Columbia Public Charter School Board by mail or telephone.

District of Columbia Public Charter School Board
1436 U Street, NW
Suite 401
Washington, DC 20009
(202) 328-2660

**Washington Convention Center Authority
Board of Directors**

Notice of Public Meetings

The Board of Directors of the Washington Convention Center Authority, in accordance with Section 742 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, D.C. Code Section 1-1504, hereby gives notice that it has scheduled the following meetings for 2005. Meetings are held in the Executive Board Room of the Washington Convention Center, 801 Mt. Vernon Place, NW, Washington, D.C. 20001, beginning at 10:30 a.m.

2005

January 6th

February 3rd

March 3rd

April 7th

May 5th

June 2nd

July 14th

August 4th

September 8th

October 6th

November 3rd

December 8th

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17238 of Sibley Memorial Hospital (Grand Oaks), pursuant to 11 DCMR § 3104.1, for a special exception to add 36 independent living units to an existing community residence facility under section 358, and pursuant to 11 DCMR § 3103.2, a variance from the building height and number of stories limitations under section 400, and a variance from the rear yard requirement under section 404, to allow the expansion of the residence's dining facilities in the R-5-A District at premises 5255 Loughboro Road, N.W. (Square 1448N, Lot 26).

HEARING DATE: November 30, 2004

DECISION DATE: November 30, 2004 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 3D, and to owners of all property within 200 feet of the property that is the subject of this application. The application was also referred to the Office of Planning (OP) and Department of Transportation (DDOT). OP submitted a report in support of the application. DDOT submitted a report having no objection to the application. The subject property is located within the jurisdiction of ANC 3D. ANC 3D submitted a letter in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to 11 DCMR §§ 3104.1 and 358, and variances under 11 DCMR § 3103.2 from the strict application of the requirements of §§ 400 and 404.

No party appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party. The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR § 3104.1, for a special exceptions under section 358, that the requested relief can be granted as in harmony with the general

BZA APPLICATION NO. 17238

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purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

The Board also concludes that the applicant has met its burden of proof under 11 DCMR §§ 3103.2, 400 and 404, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4-0-1 (Geoffrey H. Griffis, John A. Mann II, Gregory Jeffries and Ruthanne G. Miller to approve, Curtis L. Etherly, Jr. not present, not voting,).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Order.

FINAL DATE OF ORDER: DEC 02 2004

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR

BZA APPLICATION NO. 17238

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ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17243 of Everna Brown, pursuant to 11 DCMR § 3104.1, for a special exception to construct a one story rear addition to an existing single-family semi-detached dwelling under section 223, not meeting the side yard requirements (section 405), in the R-2 District at premises 246 Nicholson Street, N.E. (Square 3710, Lot 131).

HEARING DATE: November 30, 2004

DECISION DATE: November 30, 2004 (Bench Decision)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 4B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4B, which is automatically a party to this application. ANC 4B did not participate in the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted, subject to the conditions set forth below, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

BZA APPLICATION NO. 17243

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Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: 4-0-1 (Geoffrey H. Griffis, John A. Mann II, Ruthanne G. Miller, and Gregory Jeffries to approve, Curtis L. Etherly Jr. not present, not voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 01 2004

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX

BZA APPLICATION NO. 17243**PAGE NO. 3**

DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17244 of Alejandro Soriano, pursuant to 11 DCMR § 3104.1, for a special exception to construct a third story addition to a flat (two-family) row dwelling under section 223, not meeting the lot occupancy requirements (section 403), and nonconforming structure provisions (subsection 2001.3), in the R-4 District at premises 1555 9th Street, N.W. (Square 397, Lot 819).

HEARING DATE: November 30, 2004

DECISION DATE: November 30, 2004 (Bench Decision)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2C, which is automatically a party to this application. ANC 2C submitted a resolution in support of the application. The Office of Planning (OP) submitted a report in support of the application. The Board received a request for party status from Raymond Milefsky. Mr. Milefsky did not appear at the public hearing. The Board denied the request for party status.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted, subject to the conditions set forth below, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: **4-0-1** (Geoffrey H. Griffis, John A. Mann II, Ruthanne G. Miller, and Gregory Jeffries to approve, Curtis L. Etherly Jr. not present, not voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 02 2004

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF

BZA APPLICATION NO. 17244

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RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17245 of Geoff and Sharon Kuck, pursuant to 11 DCMR § 3103.2, for a variance from the lot area requirements under section 401, a variance from the lot occupancy requirements under section 403, and a variance from the rear yard requirements under section 404, to construct a new single-family detached dwelling in the R-1-B District at premises 5144 Cathedral Avenue, N.W. (Square 1439, Lot 21).

HEARING DATE: November 30, 2004

DECISION DATE: November 30, 2004 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3D, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 3D. ANC 3D submitted a letter in support of the application. The OP submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.1, 401, 403 and 404, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA APPLICATION NO. 17245

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Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: **4-0-1** (Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann II, and Gregory Jeffries to approve, Curtis L. Etherly, Jr. not present, not voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member has approved the issuance of this order.

FINAL DATE OF ORDER: December 2, 2004

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE,

BZA APPLICATION NO. 17245

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COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17246 of Donatelli & Klein, on behalf of the D.C. Government, pursuant to 11 DCMR § 3103.2, for a variance from the residential recreation space requirements under section 773, a variance to permit parking spaces serving commercial uses and apartment uses to be located in an underground parking garage under subsection 330.5, and pursuant to 11 DCMR § 3104.1, for special exceptions to extend the provisions of a less restrictive zone district into a more restrictive zone district under subsection 2514.2, and to permit a 25 percent parking reduction for the retail uses under subsection 2108.2, in order to construct a multi-family residential development with ground level retail in the R-4/C-3-A District at premises west side of the 3700 block of Georgia Avenue, N.W. (between Rock Creek Church Road, N.W. and Quincy Street, N.W.)(Square 2900, Lots 42, 43, 805, 806, 812, 816, 817, 818, and 819).

HEARING DATE: November 30, 2004

DECISION DATE: November 30, 2004 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 4C, and to owners of all property within 200 feet of the property that is the subject of this application. The application was also referred to the Office of Planning (OP) and Department of Transportation (DDOT). OP submitted a report in support of the application. DDOT submitted a report having no objection to the application. The subject property is located within the jurisdiction of ANC 4C. The Board received a report in support of the application from the ANC 4C06 Single Member District Commissioner. The report did not receive great weight, not meeting the requirements of 11 DCMR § 3115.1.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to 11 DCMR §§ 3104.1, 2108.2 and 2514.2, and variances under 11 DCMR § 3103.2 from the strict application of the requirements of §§ 330.5 and 773.

BZA APPLICATION NO. 17246

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No party appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party. The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR § 3104.1, for a special exceptions under section 2108.2 and 2514.2, that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

The Board also concludes that the applicant has met its burden of proof under 11 DCMR §§ 3103.2, 330.5 and 773, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4-0-1 (Geoffrey H. Griffis, Gregory Jeffries, Ruthanne G. Miller, and John A. Mann II to approve, Curtis L. Etherly, Jr. not present, not voting,).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Order.

FINAL DATE OF ORDER: December 1, 2004

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES

PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17246-A of Donatelli & Klein, on behalf of the D.C. Government, pursuant to 11 DCMR § 3103.2, for a variance from the residential recreation space requirements under section 773 and pursuant to 11 DCMR § 3104.1, for special exceptions to extend the provisions of a less restrictive zone district into a more restrictive zone district under subsection 2514.2, to permit a 25 percent parking reduction for the retail uses under subsection 2108.2, and to permit accessory parking spaces serving residential and commercial uses in the R-4 zone district under section 214, in order to construct a multi-family residential development with ground level retail in the R-4/C-3-A District at premises west side of the 3700 block of Georgia Avenue, N.W. (between Rock Creek Church Road, N.W. and Quincy Street, N.W.)(Square 2900, Lots 42, 43, 805, 806, 812, 816, 817, 818, and 819).

HEARING DATE: November 30, 2004

DECISION DATE: November 30, 2004 (Bench Decision)

CORRECTED SUMMARY ORDER

Note: This order corrects Order No. 17246. Order No. 17246 incorrectly cited variance approval under section 330.5, and omitted the Board's approval of a special exception under section 214.

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 4C, and to owners of all property within 200 feet of the property that is the subject of this application. The application was also referred to the Office of Planning (OP) and Department of Transportation (DDOT). OP submitted a report in support of the application. DDOT submitted a report having no objection to the application. The subject property is located within the jurisdiction of ANC 4C. The Board received a report in support of the application from the ANC 4C06 Single Member District Commissioner. The report did not receive great weight, not meeting the requirements of 11 DCMR § 3115.1.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special

BZA APPLICATION NO. 17246-A

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exception pursuant to 11 DCMR §§ 3104.1, 214, 2108.2 and 2514.2, and a variance under 11 DCMR § 3103.2 from the strict application of the requirements of § 773.

No party appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party. The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR § 3104.1, for a special exceptions under sections 214, 2108.2 and 2514.2, that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

The Board also concludes that the applicant has met its burden of proof under 11 DCMR §§ 3103.2 and 773, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4-0-1 (Geoffrey H. Griffis, Gregory Jeffries, Ruthanne G. Miller, and John A. Mann II to approve, Curtis L. Etherly, Jr. not present, not voting.).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Order.

FINAL DATE OF ORDER: December 2, 2004

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

ZONING COMMISSION NOTICE OF FILING
Case No. 04-35
(Consolidated PUD – 2302-2310 MLK Jr. Avenue, S.E.)
December 13, 2004

THIS CASE IS OF INTEREST TO ANC 8A03

On December 3, 2004, the Office of Zoning received an application from The Salvation Army (the "applicant"). The applicant is requesting from the Zoning Commission approval of a consolidated PUD for Square 5805, Lots 222-226.

The property that is the subject of this application consists of Lots 222-226 in Square 5805 and is located in southeast Washington, D.C. (Ward 8), with a street address of 2302-2310 Martin Luther King Jr. Avenue, S.E. The property is currently zoned C-2-A.

The applicant proposes to construct a community center building containing approximately 46,988 square feet of gross floor area. It will include 4,100 square feet of retail space, community program space, office space for The Salvation Army, a child care and family development center, worship space, job training, a health and wellness center, and underground parking for 34 cars. This request is not inconsistent with the Comprehensive Plan of the District of Columbia.

For additional information, please contact, the Secretary to the Zoning Commission at (202) 727-6311.

ZONING COMMISSION ORDER NO. 973
Z.C. Case Number 01-19C
(Consolidated PUD – Trenton Terrace)
June 14, 2004

DISMISSAL ORDER

On August 27, 2001, Crawford Edgewood Managers, Inc. ("Applicant") applied to the Zoning Commission for consolidated review and approval of a planned unit development under Chapter 24 of the Zoning Regulations.

On November 19, 2001, the Commission voted to set down the matter for a hearing.

The Applicant never submitted the pre-hearing statement required by 11 DCMR § 3013.

On March 29, 2004, the Secretary of Zoning Commission wrote to the Applicant's designated representative and stated that the Zoning Commission would consider dismissing the matter at the June 14, 2004, public meeting unless a response was received by June 1, 2004. The Applicant's representative did not respond to the letter.

Upon consideration of the reasons set forth herein, the Zoning Commission hereby orders **DISMISSAL** of Z.C. Case No. 01-19C.

Vote of the Zoning Commission taken at the public meeting on June 14, 2004, 3-0-2 (Carol J. Mitten, Anthony J. Hood, and Kevin L. Hildebrand in favor; Gregory N. Jeffries and John G. Parsons not present, not voting).

In accordance with the provision of 11 DCMR § 3028, this Order is final and effective upon publication in the DC Register on _____.

ZONING COMMISSION ORDER NO. 974

Z.C. Case No. 00-01

(Application for Approval of Use of Air Space to permit construction and maintenance of a bridge in public air space)

June 14, 2004

DISMISSAL ORDER

On January 5, 2000, Yale Steam Limited Partnership applied to the Zoning Commission for approval of use of air space to construct a bridge in air space above a public alley.

On April 19, 2002, the Commission voted to set down the matter for a hearing.

The Applicant never submitted the pre-hearing statement required by 11 DCMR § 3013.

On March 29, 2004, the Secretary of the Zoning Commission wrote to the Applicant's representative and stated that the Zoning Commission would consider dismissing the matter at the June 14, 2004 public meeting unless the Applicant responded by June 1, 2004. The Applicant's representative did not respond to the letter.

Upon consideration of the reasons set forth herein, the Zoning Commission hereby orders **DISMISSAL** of Z.C. Case 00-01.

Vote of the Zoning Commission taken at the public meeting on June 14, 2004, 3-0-2 (Carol J. Mitten, Anthony J. Hood, and Kevin L. Hildebrand in favor; Gregory N. Jeffries and John G. Parsons not present, not voting).

In accordance with the provision of 11 DCMR § 3028, this Order is final and effective upon publication in the D.C. Register on _____.

ZONING COMMISSION ORDER NO. 02-26**CASE NO. 02-26**

**(Application by George Washington University for Further Processing
of an Approved Campus Plan Under § 210 to Modify Conditions
of Approval of the Lerner Health & Wellness Center
at 2301 G Street, N.W. (Square 42, Lot 847))
June 14, 2004**

Pursuant to public notice, the Zoning Commission for the District of Columbia held a public hearing on December 2, 2002 and May 24, 2004 to consider an application from the George Washington University ("University" or "Applicant") pursuant to §§ 210 and 3104.4 of the Zoning Regulations for "further processing" special exception relief, under an existing campus plan, to amend an order of the Board of Zoning Adjustment ("BZA" or "Board") in Application No. 16276 (March 31, 1998). The Applicant sought to modify two conditions adopted by the BZA that restricted the use of the Lerner Health and Wellness Center ("Center").

Procedural Background

Public Notice. The Office of Zoning published a notice of public hearing in the *D.C. Register* on August 30, 2002 (49 DCR 8343). The Office of Zoning also mailed a notice of public hearing to the owners of all property within 200 feet of the subject property; the Office of Planning; the District Department of Transportation; Advisory Neighborhood Commission ("ANC") 2A, the ANC for the area within which the property is located; the single-member ANC district for the subject property; the Ward 2 Councilmember; the Zoning Administrator; and the Applicant.

Applicant's Case. The Applicant presented testimony from witnesses who described current and projected use of the Center and explained why the University sought to extend its membership privileges beyond those previously approved by the BZA. Paul Brailsford, co-founder and chief executive officer of Brailsford and Dunlavey, a firm involved in the development of quality-of-life facilities for universities, testified as an expert on the demand and use of recreational and intercollegiate sports facilities. He concluded that the Center was not optimally utilized and that an additional 3,000 members could be reasonably accommodated without causing an adverse impact to the Center or to the adjacent neighborhood. The Applicant's traffic expert, Nicole White of Gorove/Slade Associates, prepared a study of traffic and parking based on 3,000 potential new users of the Center. The traffic expert testified that on any given day, approximately 13 percent of the current membership uses the Center, with fewer than 10 percent of students and 20 percent of faculty and staff who use the Center arriving by private vehicle; those who drive to the Center park either on the street or in one of the University's parking

facilities. The traffic expert concluded that the current usage of the Center results in a negligible impact on the surrounding community and street system, and that the University's proposal to expand membership would result in a minimal increase in traffic.

The University requested modification of the conditions adopted by the BZA to increase the number of potential users of the Center and to expand its hours of operation. As finally proposed, the University sought to extend membership at the Center to approximately 1,300 additional potential users who would be: (a) 445 students and 85 faculty and staff from the University's Mount Vernon campus; (b) 145 members of the President's Club (which includes members of the Board of Trustees and supporters of and potential donors to the University), about 100 of whom currently use the Smith Center; (c) students, faculty, and staff, on an organized basis, from the School Without Walls, a public high school located within the campus plan boundary; (d) approximately 122 immediate neighbors or members of neighboring institutions, comprising people living in the Remington Condominiums and St. Mary's Court senior community residence facility – both within 200 feet of the Center – as well as members of St. Mary's Church and the Independent Order of Odd Fellows Lodge; and (e) guests of members – up to 25 on a weekday and 50 on a weekend. The University also proposed to extend the Center's hours of operation so as to permit the facility to remain open until 1:00 a.m. every day.

Government Reports. By reports dated November 25, 2002 and May 6, 2004, and by testimony at the public hearing, the Office of Planning ("OP") recommended changes to the conditions adopted by the Board of Zoning Adjustment so as to allow certain increases in memberships in the Center and to extend its hours of operation. OP also recommended a three-year term on the condition permitting expanded membership in order to evaluate the impact of students in new residence halls on-campus on the use of the Center and the impact of increased memberships on the Foggy Bottom neighborhood.

The Office of Planning recommended extension of membership at the Center to approximately 1,021 additional potential users, who would be: (a) 530 students, faculty, and staff from the University's Mount Vernon campus; (b) 102 residents of St. Mary's Court (50 memberships) and the Remington Condominium (52 memberships); (c) 20 members of two immediately adjacent institutions, St. Mary's Church and the Odd Fellows Lodge (10 memberships each); and (d) 369 students and faculty of the School Without Walls. OP recommended against permitting additional members of the President's Club, in part because they were most likely to create adverse traffic impacts on the surrounding neighborhood. OP also recommended against permitting guests of members, so as to avoid changing the nature of the Center as a university use. With respect to the Applicant's proposal to modify the operating hours of the Center, OP recommended that the Center should be permitted to remain open until 11:30 p.m. daily.

By memorandum dated November 26, 2002, the District Department of Transportation ("DDOT") supported OP's recommendation to revise Condition No. 1 to limit new members to residents of the Foggy Bottom/West End community together with students, faculty, and staff from the Mount Vernon campus, provided that adequate transit service was provided to and from the Mount Vernon campus. DDOT also concurred with OP's recommendation to limit the closing hours of operation to 11:30 p.m. seven days per week. DDOT acknowledged that

extension of the Center's closing hour would have little traffic impact, but expressed concern that the extension might result in noise impacts or "other disruption" to the community.

ANC Report. By letter dated November 26, 2002, ANC 2A submitted a resolution in opposition to the application. The resolution stated the ANC's objections that the University was attempting to change the use of the Center approved by the BZA from a low-intensity support facility to a more intensely used facility; that the faculty, staff, and students of the Mount Vernon campus should not be included in the membership of the Center without review of the Foggy Bottom and Mount Vernon campus plans; and that the University was attempting to include additional unapproved changes, such as earlier opening hours, inclusion of a greater number of users of the facility, and inclusion of intercollegiate sports activities. ANC 2A also contended that modifying the membership categories to include non-University parties would violate the District of Columbia Human Rights Act and would expose the University, the Commission, and the District "to legal recourse from any excluded party under the Act."

By letter dated May 4, 2004, ANC 2A reiterated its opposition to the proposed expanded use of the Center as the improper conversion of a university use into a quasi-commercial facility in a residential zone. The ANC also challenged the University's "apparent lack of compliance" with the cap on the number of students at the Foggy Bottom campus adopted as part of the approved campus plan. ANC 2A stated that the conditions adopted by the BZA limiting the categories of users and the hours of operation should not be changed, because those conditions were "clearly working to prevent the University from creating any further objectionable effects (including increased traffic, noise, and too-intense use, e.g.)" with the Center.

Persons in support. Approximately 10 residents of the Foggy Bottom neighborhood testified in support of the application, generally objecting that the conditions adopted by the BZA had excluded neighborhood residents from benefiting from use of the Center. Cynthia Jachles, a resident of the 2400 block of Virginia Avenue, N.W., proposed to increase membership of the Center by 100 residents of the Foggy Bottom neighborhood on a first-come, first-served basis.

Persons in opposition. A representative of the Foggy Bottom Association, testifying in opposition to the application, asserted that expanded membership and increased hours of operations for the Center would have an adverse impact on the neighborhood and its taxpaying businesses.

Campus Plan Proceeding. By order dated March 29, 2001 in Application No. 16553, the Board of Zoning Adjustment approved the University's Foggy Bottom Campus Plan through June 30, 2009, subject to certain conditions. The University filed a petition for review with the District of Columbia Court of Appeals.¹ On July 31, 2001, the Court of Appeals, at the BZA's request,

¹ The University also filed a civil action in the United States District Court for the District of Columbia challenging the constitutionality of the BZA Order. On June 15, 2001, the District Court issued a preliminary injunction preventing enforcement of Condition No. 9 of the March 29, 2001, Board Order during academic year 2001-2002, or until further order of the Court. After the Board issued its Final Order on Remand, the University again sought a preliminary injunction before the District Court and the parties filed cross motions for summary judgment. On April 12, 2002, the District Court entered a declaratory judgment holding that Condition No. 9 (except the unchallenged

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remanded the case without limitation as to the scope of the remand proceeding. The Board held evidentiary hearings on September 17 and 21, 2001, issued a proposed Order, and then issued a Final Order on Remand, effective January 23, 2002, that incorporated and adopted the March 29, 2001 Order, except as revised.

Pursuant to the approved Campus Plan, no special exception application filed by the University for further processing under the plan may be granted unless the University proves that it has consistently remained in substantial compliance with the conditions of the campus plan. Further, Condition No. 9(e) provided that no special exception would be granted, and no permit to construct or occupy a building for nonresidential use on campus would be issued, whenever a semiannual report submitted by the University revealed that the University was not in compliance with the provisions of Condition No. 9, except special exceptions and permits for projects in which a student housing component would occupy at least 50 percent of the floor area.

At a public meeting held March 10, 2003, the Commission determined that the University was not then in compliance with Condition 9(a) of the Board's Final Order on Remand. In accordance with Condition No. 9(e), the Commission determined that the University had not demonstrated that it was in compliance with Condition 9(a) and, for that reason, the Commission voted to deny Application No. 02-26.

On July 3, 2003, the District of Columbia Court of Appeals stayed Conditions No. 9(a) and 9(e), as well as Condition No. 10, which mandated that all freshmen and sophomores live in University housing within the campus plan boundary. Since the Court had stayed the condition upon which the Commission had based its denial, the University, by letter dated September 4, 2003, asked the Commission to reopen the record to receive further evidence and to decide the application on its merits. By letters dated October 17, 2003, ANC 2A and the Foggy Bottom Association stated their opposition to the University's request.

Four days after the date of the University's request, the District of Columbia Court of Appeals issued its decision in *George Washington v. BZA*, 831 A. 2d 921 (D.C. 2003), which affirmed the Board's Order in major part but invalidated Conditions No. 9(a) and 9(f). The Court upheld Condition No. 9(b) to the extent it imposed on-campus housing obligations to be met after August 2006 and Condition No. 10. Although Condition No. 10 was affirmed, the Court stayed its effectiveness pending a second remand to the Board.

The Court's order did not become immediately effective, because both parties filed petitions for rehearing. The District did not seek a rehearing concerning Condition No. 9(a), upon which the

reporting requirement) and Condition No. 10 violated substantive due process, but upholding the amended Order and the Zoning Regulations against other challenges. On appeal, the United States Court of Appeals reversed the District Court judgment to the extent it had invalidated portions of the Order. See *George Washington University v. District of Columbia*, 318 F.3d 203 (D.C. Cir. 2003). The Supreme Court denied further review. See *George Washington University v. District of Columbia*, - U.S. -, 124 S.Ct. 155, 157 L.Ed.2d 45 (2003).

Commission's denial of this application was based, but questioned the Court's decision to stay Condition No. 10 pending remand. The applicant also questioned the stay, but only as to its temporary nature, arguing that the condition remained invalid.

Thus, even though the Court struck down the condition that resulted in the denial of this application, uncertainty remained whether Condition No. 10 would once more become effective prior to the conclusion of these proceedings. At a public meeting on October 20, 2003, voted to defer consideration until the status of the condition was finally resolved.

The Court of Appeals denied both parties' petitions for rehearing on December 23, 2003, and the Order became final shortly thereafter. The Commission, at its regularly public meeting held February 19, 2004, once again took up the applicant's motion, and requested additional information pertaining to recent operation of the Center and to the University's compliance with conditions of approval of its campus plan. Notice of the continued hearing was published in the *D.C. Register* on March 19, 2004 (51 DCR 2873), and the hearing was held May 13, 2004.

In its Order on Second Remand (Application No. 16553-I, April 26, 2004), the Board revised its conditions of approval of the University's Campus Plan, but declined to take further action with respect to Condition No. 10. Issuance of the Order on Second Remand, which modified the Board's prior order consistent with the mandate of the Court of Appeals decision, ended the stay of Condition No. 10, making it necessary for the applicant to demonstrate compliance with that condition. For the reasons noted below, the Commission has determined that, for purposes of this proceeding, that University has demonstrated compliance with that condition, so that this application may be decided on its merits.

FINDINGS OF FACT

1. The subject property is located at 700 23rd Street, N.W., at the northwest corner of the intersection of 23rd and G Streets, N.W. (Square 42, Lot 847). The subject property is located within the University's campus plan boundaries and is zoned R-5-D.
2. The subject property is improved with a four-story structure with four underground levels, three of which are used for parking. The building houses the Lerner Health and Wellness Center, which is used for physical fitness and recreational activities.
3. Construction and use of the Center was conditionally approved by the Board of Zoning Adjustment by order issued March 31, 1998 in Application No. 16276. The conditions of approval require that: (a) use of the facility is limited to the students, faculty, and staff of the Foggy Bottom campus and (b) operation of the facility must end at 10:00 p.m., Monday through Saturday and at 8:00 p.m. on Sundays.
4. The Center opened in August 2001. The University testified that actual usage of the Center has been significantly below the building capacity; the Center was constructed to

hold almost 2,000 users at any given time, but has operated at 12.5 percent of capacity during its routine peak period of use.

5. The Center opens at 6:00 a.m. Peak hours of use are Monday through Wednesday, 6:00 p.m. to 8:00 p.m.
6. The Center's only intercollegiate facility is squash courts. The squash courts do not have seating for spectators, and the scheduling of intercollegiate squash activities at the Center will not appreciably increase the occupancy or the intensity of the Center. All other intercollegiate sports occur at the Smith Center, which does not have squash courts for intercollegiate play.
7. The Commission credits OP's conclusion that holding intercollegiate squash matches at the Center would not result in an adverse impact in the neighborhood because of the limited number of team members involved and the lack of spectator space in the Center.
8. The University's Smith Center is available for use by persons other than students, faculty, and staff of the Foggy Bottom campus, including alumni, persons who live or work nearby, and University supporters. The University indicated its intention to renovate the Smith Center for use solely as a facility for intercollegiate athletics.
9. The University runs a shuttle bus service between the Foggy Bottom and Mount Vernon campuses 24 hours per day. Shuttle buses run every 10 minutes between 7:00 a.m. and 7:00 p.m., and are scheduled no less frequently than every 20 minutes during the school year. A shuttle bus stop is located one block from the Center. The shuttle buses have had as many as 68,000 users in a one-month period, and almost 500,000 riders for each of the past two years.
10. Most students at the Mount Vernon Campus take classes at the Foggy Bottom Campus and are currently eligible to use the Center.
11. The membership of the President's Club includes 44 members of the University's Board of Trustees as well as other supporters of the University. The Commission credits OP's testimony that additional members of the President's Club are most likely, among the Applicant's proposed expanded categories of membership, to create adverse traffic impacts on the surrounding neighborhood, because they are most likely to arrive on campus by private vehicle.
12. The Commission credits the testimony of the Applicant's traffic expert that current use of the Center is not generating adverse traffic impacts in the surrounding neighborhood, and that most current users arrive at the Center on foot or by public transportation.
13. The Commission credits OP's testimony that permitting guests of members would jeopardize the nature of the Center as a university use.

14. The School Without Walls is a public high school located within the University's campus plan boundaries. The University has a relationship with the school, so that some of its students and faculty are enrolled in University classes and are permitted to use certain University facilities, such as the library.
15. The Commission finds that the Applicant has satisfied its burden of proving substantial compliance with conditions of approval of the University's campus plan during the 2003/2004 academic year. With respect to Condition No. 10, the Commission credits the Applicant's testimony that housing assignments were begun in December and completed by March, and notes that the stay of Condition No. 10 was lifted relatively late in the academic year (on April 26, 2004, the date of the BZA's decision in its Order on Second Remand, Application No. 16553-I). The Commission credits the Applicant's testimony that no additional beds were available on campus for freshmen and sophomore students.
16. The Commission credits OP's testimony that the membership and hours of operation of the Center can be expanded consistent with the requirements of §§ 210 and 3104 of the Zoning Regulations.

CONCLUSIONS OF LAW

The Applicant is seeking special exception approval, pursuant to §§ 210 and 3104 of the Zoning Regulations, for further processing of its approved campus plan to modify the conditions of approval for the use of the Lerner Health & Wellness Center. The Commission is authorized to grant a special exception where, in the judgment of the Commission based on a showing through substantial evidence, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject to certain conditions specified in §§ 210 and 3104.1.

In considering the University's application, the Commission notes that the Center is a university use that would not be permitted in the R-5-D zone but for its approval as a special exception consistent with the University's approved campus plan. Accordingly, any changes to the conditions of approval adopted by the Board of Zoning Adjustment in initially approving the construction and use of the Center must maintain its purpose as a university use.

The Commission concludes that certain categories of expanded membership proposed by the University can be permitted consistent with the university use of the Center. They are: (a) students, faculty, and staff of the University's Mount Vernon campus, many of whom are already permitted to use the Center; members of the University's Board of Trustees; and students of the School Without Walls, a public high school located within the campus plan boundary that has an on-going relationship with the University, provided that the high school students are engaged in organized activities at the Center under the supervision of school faculty.

The Commission concludes that the other categories of expanded membership proposed by the University, the Office of Planning, and a person in support of the application lack sufficient

connection to the university use of the Center and would therefore be incompatible with the special exception allowing a university use in a Residence zone. These categories are: (a) members of the President's Club (except for those members who are also members of the Board of Trustees); (b) immediate neighbors and members of neighboring institutions; and (c) guests of members.

With regard to hours of operation, the Commission concurs with the Office of Planning that a closing time of 11:30 p.m. is appropriate for all days of the week. The Commission is not persuaded by the Applicant that the Center could remain open until 1:00 a.m. without causing noise or other objectionable conditions adversely affecting the use of nearby residential property.

The Commission accorded ANC 2A the "great weight" to which it is entitled. In doing so, the Commission fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed modification of use of the Center on the ANC's constituents. However, the Commission concludes that the ANC has not offered persuasive advice that would cause the Commission to find that expanded use of the Center, as approved in this Order, is contrary to the Zoning Regulations and would adversely affect the use of neighboring property.

The expanded membership approved in this Order will maintain the university use of the Center and thus will not alter its character from a low-intensity support facility to a more intensely used facility, or a quasi-commercial facility. The Commission does not agree that the faculty, staff, and students of the Mount Vernon campus should not be included in membership of the Center without review of the University's campus plans. The University's application for further processing is consistent with the approved campus plan for the Foggy Bottom campus, and does not affect the Mount Vernon campus plan. The ANC's argument that modifying the membership categories to include non-University parties would violate the District of Columbia Human Rights Act is moot in light of the Commission's decision not to expand membership of the Center beyond its university use. The Commission is not persuaded by the ANC's contentions that the University has attempted to make unauthorized changes to the use of the Center or is out of compliance with its approved campus plan.

Based upon the record before the Commission and having given "great weight" to the ANC, the Commission concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 210.1, that the modification of the conditions of BZA Order No. 16276, to the extent granted herein, will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. Nevertheless, the Commission believes that a time limit should be placed on the modification, so that the Commission can determine whether this prediction is correct.

DECISION

In consideration of the findings and conclusions set forth in this Order, the Zoning Commission for the District of Columbia hereby **ORDERS** that this application be **GRANTED** and that the conditions set forth in BZA Order No. 16276 are modified to read as follows:

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1. Use of the Center shall be limited to:
 - (a) students, faculty, and staff of the University's Foggy Bottom and Mount Vernon campuses;
 - (b) members of the University's Board of Trustees; and
 - (c) students of the School Without Walls, in organized activities under the supervision of school faculty.
2. The expanded categories of membership enumerated in Condition No. 1 shall be in effect for three years from the effective date of this Order. Absent new special-exception approval by the Zoning Commission, membership of the Center after the three-year period shall be as originally approved by the Board of Zoning Adjustment by order issued March 31, 1998 in Application No. 16276; that is, use of the facility shall be limited to the students, faculty, and staff of the Foggy Bottom campus.
3. The Center shall open no earlier than 6:00 a.m. and close no later than 11:30 p.m. on all days.

Vote of the Zoning Commission taken at its public meeting on June 14, 2004: **4-0-1** (Carol J. Mitten, Anthony J. Hood, Kevin Hildebrand, and Gregory N. Jeffries (by absentee vote) to approve with conditions; John G. Parsons not participating, not voting).

In accordance with the provisions of 11 DCMR § 3028, this order shall become final and effective upon publication in the *D.C. Register*; that is, on _____.

ZONING COMMISSION ORDER NO. 02-31
Case No. 02-31
(Georgetown University Boathouse Text Amendment)
December 11, 2003

On August 6, 2002, the President and Directors of Georgetown College ("Georgetown University" or "University") and the National Park Service ("NPS"), (collectively, the "Applicants") filed a petition for a map amendment from unzoned to W-1 for property along the bank of the Potomac River identified as Tract 102-114 (the "Property"). The map amendment was necessary in order to allow construction of the University's proposed boathouse on the Property. (Zoning Commission Case No. 02-30). Also on August 6, 2002, the Applicants submitted a petition requesting text amendments to the W-1 Waterfront Zone District regulations that would be necessary to permit development of the boathouse if the Property were mapped W-1. (Zoning Commission Case No. 02-31.) On October 28, 2002, the Zoning Commission set down both petitions for public hearing.

The Office of Planning ("OP"), in its Setdown Report to the Zoning Commission, dated October 18, 2002, recommended that the Commission consider mapping the Property with an entirely new zoning category, the Waterfront Open Space, or W-0, zone. The W-0 Zone District was newly proposed by OP in Zoning Commission Case No. 02-42, which proceeded before the Commission during the same time period as the instant case.

At its October 28, 2002 meeting, the Zoning Commission considered the recommendation from OP that the proposed W-0 zone be considered as an alternative to the W-1 request. The Applicants acquiesced in the consideration of the W-0 zone as a potentially applicable zone classification and their petition for a map amendment was therefore advertised in the alternative.

A public hearing on the petition for the text amendments to the W-1 regulations was held on May 19, 2003. The hearing was conducted as a rulemaking. A public hearing on the application for a map amendment to W-0, or in the alternative W-1, was held on May 19, June 5, and June 19, 2003, as a contested case, pursuant to 11 DCMR § 3022.

At its public meeting on July 31, 2003, the Zoning Commission took proposed action to approve the application for a map amendment from unzoned to W-0 by a vote of 4-1-0. Final action was taken to approve the map amendment to W-0 on December 11, 2003, by a vote of 3-0-2. At the same time the Commission voted to deny this petition as moot.

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Because the Property was mapped with the W-0 Zone District, the Applicants' petition for text amendments to the W-1 District was no longer applicable. The text amendments would only have been necessary if the Property had been mapped W-1, in order to facilitate the construction of the University's boathouse. Since the W-0 text now applies, it serves no purpose to amend the W-1 provisions.

In consideration of the above, the Zoning Commission for the District of Columbia hereby **ORDERS DENIAL** of Case No. 02-31, the petition of the Applicants for text amendments to the W-1 Zone District regulations.

At the public meeting held on December 11, 2003, the Zoning Commission voted to **DENY** the petition, by a vote of 3-0-2. (Commissioners Carol J. Mitten, Anthony J. Hood and Peter G. May to deny, two Commissioners not present, not voting.)

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register, that is, on _____.

ZONING COMMISSION ORDER NO. 02-36
Case No. 02-36
(Proposed Zoning Map Amendment to Apply Proposed High-Density
Residential Retail Overlay on Southern Half of Square 25)
September 8, 2003

DISMISSAL ORDER

Case No. 02-36 concerns the southern half of Square 25, also known as Lot 806 (the subject property). The subject property, which abuts the southern half of Square 37, was zoned R-5-D and is the site of the former Columbia Hospital for Women.

After the decision to set down this proceeding, the Commission set down, heard, and, on September 8, 2003, approved, Case No. 03-11, a planned unit development ("PUD") application and PUD-related map amendment for the subject property. Since the PUD was granted, there is no need for an HDRR Overlay, as the PUD will address the same need for retail and service uses that the HDRR would have addressed. Therefore, pursuant to 11 DCMR § 3011, on September 8, 2003, the Zoning Commission dismissed Case No. 02-36.¹

The Zoning Commission, by vote of 5-0-0, taken at its public meeting on September 8, 2003, hereby orders **DISMISSAL** of Case No. 02-36 (Carol J. Mitten, Anthony J. Hood, Peter G. May, John G. Parsons, and James H. Hannaham to approve).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register, that is, on _____.

¹ The Commission subsequently denied the HDRR petition (Z.C. Order 972 for Case No. 01-33).

ZONING COMMISSION ORDER NO. 03-03
Z.C. Case No. 03-03/02-05
(Second-Stage PUD –Capitol Gateway Estates)
May 10, 2004

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on March 11, 2004 to consider an application from the D.C. Housing Authority and the associated private development team of A&R/THC LLC and East Capitol Street Gateway LLC (collectively, the "Applicants") for review and approval of the second stage of a two-stage planned unit development ("PUD") and a related zoning map amendment, pursuant to Chapter 24 of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. The proposed development is a mixed-income residential community with various building types and a community center. The public hearing was conducted in accordance with the contested case provisions of 11 DCMR § 3022. For the reasons stated below, the Commission approves the application subject to specified guidelines, conditions, and standards.

Preliminary Matters

In Zoning Commission Order No. 02-05, dated September 9, 2002 and effective upon its publication in the *District of Columbia Register* on November 29, 2002, the Commission approved the first stage of this PUD for a residential redevelopment of multi-family and single-family residential buildings, plus a community center building. The Order also adopted a related map amendment for the subject property from unzoned to R-5-A.

On May 19, 2003, the Applicants submitted an application and pre-hearing submission to the Commission for the final (second) stage of the PUD. The application requested final approval of the plans and site plans depicting 14 single-family detached houses, 122 semi-detached houses, 62 rowhouses, and 28 units in seven "grandhouses," each containing four units, for a total of 226 dwelling units. The plans also included a community center building.

A description of the proposed development and a notice of public hearing were published in the *D.C. Register* on November 21, 2003 (50 D.C. Reg. 9940). The public hearing was originally scheduled for January 8, 2004, but was rescheduled. Notice of the rescheduled hearing was published in the *D.C. Register* on January 2, 2004 (51 D.C. Reg. 86). Notice of the hearing was also mailed to all property owners within 200 feet of the subject property as well as to Advisory Neighborhood Commissions ("ANC") 7C and 7E.

The parties in the case were the Applicants and ANCs 7C and 7E.

The Zoning Commission opened and completed the public hearing on March 11, 2004. At the conclusion of the public hearing the Commission took proposed action to approve the application by a vote of 4-0-1. The Commission took final action to approve the application on May 10, 2004, also by a vote of 4-0-1.

FINDINGS OF FACT

The Site and the Area

1. The property that is the subject of this application consists of approximately 23.14 acres of land. It is a multi-parcel, multi-square site including much of the land area within the following boundaries: 58th Street and Southern Avenue, S.E. on the east; Central Avenue, S.E. on the south; 56th Place, S.E. and 57th Place, N.E. on the west; and Clay Street, N.E. on the north. The property is identified as Lots 51-56 and 67-78 in Square 5246; Lot 51 in Square 5272; Lot 53 in Square 5279; Lots 99-114 and 118-204 in Square 5280; and Lots 36-92, 96-98, and 101-139 in Square 5281 (the "PUD Site").
2. The PUD Site is located in the East Capitol area of Washington straddling the Northeast and Southeast quadrants. The site is currently improved primarily with townhouses, walk-up apartment buildings, and high-rise apartment buildings.
3. The land use and zoning pattern surrounding the PUD Site consists of R-2 and R-5-A zoning, with a mixed residential development pattern. Some areas and blocks are improved predominantly with detached and/or semi-detached houses, triplexes, or rowhouses, plus scattered garden apartments. Within this area – which extends generally to the southwest towards Marshall Heights and the northeast towards Lincoln Heights, Burrville, and Deanwood – are several pockets of C-1 (neighborhood convenience commercial) and a short strip of C-2-A (moderate-density commercial) zoning along Dix Street, N.E.
4. Several public facilities are located in the immediate vicinity of the PUD Site. The PUD Site is within walking distance of the Capitol Heights Metrorail Station. The Watts Branch Park borders and primarily defines the north-northeastern edge of the site, reinforced by the Watts Branch Playground, bounded generally by Southern Avenue, 61st Street, and Banks Place, N.E. Two public schools – Shadd Elementary School and Evans Middle School – flank East Capitol Street immediately to the west of the project site. The East Capitol Community Building will be located at the southeast corner of 56th Place and East Capitol Street, S.E., just across these streets from the public schools.
5. The R-5-A district is a low-density residential zone that allows detached and semi-detached dwellings as a matter of right, and row dwellings and multi-family dwellings including apartment buildings with approval as a special exception or within a planned unit development. With a PUD, the maximum permitted building height is sixty feet (60') and the maximum floor area ratio ("FAR") is 1.0.

The PUD Project

6. Capitol Gateway Estates represents a major policy initiative and commitment of resources by the D.C. Housing Authority. It is a HOPE VI project funded in part by the U.S. Department of Housing and Urban Development ("HUD"). The HOPE VI program, established in 1994, provides planning and demolition grants so that a partnership of the local housing authority and a private developer can replace dysfunctional public housing projects with new mixed-income residential communities.
7. The Applicants plans to demolish the existing buildings on the PUD Site and redevelop the property with 226 dwelling units and a community center building. The proposed breakdown of dwelling units by type is as follows:
 - (a) Single-family detached houses 14 units
 - (b) Semi-detached houses 122 units
 - (c) Rowhouses 62 units
 - (d) Grandhouses (7 buildings) 28 units
8. A new 150-unit senior apartment building is under construction on Square 5273, adjacent to the PUD Site, pursuant to separate approval as a consolidated PUD in Zoning Commission Case No. 02-04C.
9. In addition to special exception approval for new rowhouses and grandhouses in the R-5-A zone consistent with the requirements of § 410, the proposed PUD would require zoning relief for parking. The zoning relief requested by the Applicants is shown in the table attached to this Order. The Commission finds that the degree of flexibility requested is balanced appropriately by the benefits and amenities proffered by the Applicants in the proposed PUD.
10. The Commission finds that the project is likely to achieve its overall goal of creating a stable, mixed-income residential neighborhood with integrated supportive social and economic services and an attractive urban design plan with a mixture of building types. The PUD plan is designed to address and remediate a combination of site constraints and undesirable social, physical, and environmental conditions that have developed in the existing public housing complexes over a period of years. The development is designed to transform and revitalize the area and create an attractive gateway into the District of Columbia from Maryland.
11. The proposed residential development north of East Capitol Street is oriented to Blaine Street, 58th Street, and new limited access streets to be created between 58th Street and 57th Place, N.E. Residential buildings in these locations will include detached and semi-detached houses, rowhouses, and grandhouses, in addition to the apartment building for seniors, separately approved.

12. South of East Capitol Street, the blocks bounded by East Capitol and 58th Streets, Southern Avenue, and 56th Place, S.E., will be developed with several housing types: detached and semi-detached single-family homes, rowhouses, and grandhouses. The dwellings will include for-sale and rental units, both affordable and market-rate units. The single-family houses and rowhouses will include two-story and three-story units, some with garages. Exterior materials will include brick as well as siding. Although the residential buildings will not be replicas of any historical style from the surrounding neighborhood, the dwellings are designed to be contextual and compatible with the surrounding neighborhoods. Significant grading and reconfiguring of streets is proposed in this area to create more defensible spaces with better street visibility.
13. The final development component is the East Capitol Community Building at the corner of East Capitol Street and 56th Place, S.E. This facility will accommodate a daycare center for 75-80 children, a large multi-purpose room, a large computer lab, a classroom for 25 people, and offices for the East Capitol View CDC and the East Capitol Center for Change. A number of the service programs for residents of New East Capitol will be accommodated in the building. The building is proposed to be one-story in height, with a distinctive design including low octagonal towers, low lot coverage with extensive landscaping, an automobile drop-off, and 33 parking spaces. The gross floor area is proposed to be 15,468 square feet.
14. The Commission credits the testimony of the Applicants' traffic expert, O.R. George & Associates, that the proposed PUD will not create adverse traffic impacts. The traffic expert's impact study indicated that the existing road network in the vicinity of the PUD Site could adequately accommodate the proposed development.
15. The Commission finds that the PUD project will create public benefits and project amenities, as follows:
 - (a) A new high-quality, mixed-income residential community will replace the existing multiple public housing complexes that have widespread social, physical, and environmental problems. The revitalization plan features a housing mix tailored to homeowners and renters with a range of incomes. The project was designed with community participation and includes a relocation plan and housing options for current public housing residents. Social and economic services will be provided to assist residents reach educational, job, homeownership, and personal achievement goals.
 - (b) The proposed development will create a complete new community with attractive urban design and landscaping, major environmental improvements, and renewed street connections with the surrounding neighborhood. The open space at Watts Branch stream and park will be restored and upgraded. An improved street network will be created, and a balanced mixture of housing types and densities are proposed. The plans address stormwater runoff, slope stability, open spaces, and related matters.

- (c) The surrounding neighborhoods are likely to benefit from development of the proposed PUD, including through improved building and site aesthetics, enhanced property values and enjoyment of neighborhood life, improved social services, restoration of Watts Branch steam bed and park, and reduced traffic due to reduced population density and improved street pattern. No significant adverse effects on surrounding neighborhoods or public facilities are likely to occur.
 - (d) The site, landscape, and architectural plans exhibit a high quality of planning and urban design.
16. The PUD is not inconsistent with the Comprehensive Plan for the National Capital and will help carry out many of its policies. The PUD Site is a designated Housing Opportunity Area, and the PUD will help carry out numerous goals and objectives regarding the development of housing and affordable housing in the District of Columbia. The PUD will advance at least six of the 10 Major Themes of the Comprehensive Plan, including stabilizing and improving the District's neighborhoods, respecting and improving the physical character of the District, preserving and promoting cultural and natural amenities, preserving and ensuring community input, providing for diversity and overall social responsibilities, and promoting enhanced public safety. The scale of development and the requested R-5-A zoning are consistent with the land use designation of "Moderate Density Residential" on the Generalized Land Use Map of the Comprehensive Plan.

Office of Planning Report

17. By report dated March 1, 2004 and testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application as consistent with the PUD evaluation standards outlined in § 2403 and in accordance with the intent of the Zoning Regulations, the PUD process, and the first-stage PUD approval. OP identified several key public benefits in the PUD, including housing and affordable housing; uses of special value to the neighborhood and to the District of Columbia; urban design, architecture, landscaping, and open spaces; efficient and economical site planning and land utilization; environmental benefits; and effective and safe vehicular and pedestrian access. OP noted favorably the sustained community involvement effort by the Applicants, including continuing quarterly Community Task Force meetings and meetings with ANCs 7E and 7C.
18. The Commission credits OP's testimony that the proposed PUD is not inconsistent with the Comprehensive Plan and is anticipated to have a positive impact on the surrounding area, with its mix of housing types that will promote a stable and attractive community and the addition of the community center, daycare center, and neighborhood parks that will provide positive services to the neighborhood.

Reports of Other Agencies

19. The D.C. Department of Transportation, by report dated March 2, 2004, indicated that local intersections near the PUD project will continue to function at acceptable levels and that the Department will work closely with the Applicants in implementing traffic and street changes.
20. The Metropolitan Police Department and the Fire and Emergency Medical Services Department both submitted reports indicating no objection to the PUD project.

National Capital Planning Commission

21. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act. NCPC, by delegated action of the Executive Director dated May 6, 2004, found the proposed PUD would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The planned unit development process is an appropriate means for controlling development of the site in a manner consistent with the best interests of the District of Columbia. The PUD process is designed to encourage high-quality development that provides public benefits (11 DCMR § 2400.1) and allows flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2).
2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a two-stage PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. Approval of this application is not inconsistent with the Comprehensive Plan for the National Capital.
5. Approval of this application is consistent with the purposes of the Zoning Regulations and the Zoning Map of the District of Columbia and will promote orderly development in conformity with the Zone Plan as a whole.

6. The PUD is within the applicable height and bulk standards of the Zoning Regulations, and the proposed height and density of buildings will not cause any adverse effect on nearby properties. The proposed residential uses are appropriate on this site, which is well served by a major arterial street, bus lines, and a nearby mass transit station. The impact of the project on the surrounding area will not be adverse, but rather will enhance and promote the revitalization of the area.
7. The development of the project is compatible with District-wide and neighborhood goals, plans and programs and is sensitive to environmental protection, public safety, and other significant public policy objectives.
8. The Commission is required under D.C. Code §1-309.10(d) (2001) to give great weight to the issues and concerns raised in the recommendations of the affected ANCs. The Commission notes that the affected ANCs, 7C and 7E, did not submit written recommendations in this proceeding or testify at the public hearing.
9. Final (second-stage) approval of the PUD application will promote the orderly development of the site in conformity with the entirety of the District of Columbia Zone Plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
10. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, as amended.

DECISION

In consideration of the Findings of Fact and Conclusions of Law stated herein, the Zoning Commission orders **APPROVAL** of the second-stage (final) PUD for property located near East Capitol Street and Southern Avenue, S.E., specifically Lots 51-56 and 67-78 in Square 5246; Lot 51 in Square 5272; Lot 53 in Square 5279; Lots 99-114 and 118-204 in Square 5280; and Lots 36-92, 96-98, and 101-139 in Square 5281.

This approval is subject to the following guidelines, conditions, and standards:

1. The final design of the PUD shall be developed in accordance with the revised site plan, architectural plans, and landscape plans submitted as Exhibits 27 and 33 in the record of this case.
2. The project shall be developed with residential buildings and a community center building, as well as accessory parking as depicted on the approved plans.
3. The maximum building height in the project shall be 50 feet and the maximum aggregate density shall be 1.0 FAR.
4. In accordance with the plans, the approved PUD shall consist of a community center building and 226 dwelling units, distributed as follows by building type:
 - (a) Single-family detached dwellings 14

- | | | |
|-----|---|-----|
| (b) | Single-family semi-detached dwellings | 122 |
| (c) | Rowhouses | 62 |
| (d) | Grandhouses, with four units in each of the 7 buildings | 28 |
5. There shall be a minimum of 226 on-site parking spaces plus curbside spaces as depicted on the plans.
6. The community center building shall be constructed according to the plans submitted as Exhibit 27 of the record. The building shall have a height not to exceed 25 feet and a gross floor area not to exceed 16,000 square feet. The site shall provide 33 off-street parking spaces.
7. The Applicants shall have the flexibility in the final detailing of the project to modify plans so as to achieve compliance with the requirements of the Americans with Disabilities Act.
8. The Applicants shall abide by the terms of the executed Memorandum of Understanding with the D.C. Office of Local Business Development in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project to be created as a result of the PUD project. After the completion of construction of the project, the Applicants shall provide a written status report to the Zoning Commission and the D.C. Local Business Opportunity Commission regarding compliance with this agreement. The Memorandum of Understanding entered into with the District of Columbia Office of Local Business Development, submitted into the record as Exhibit 32, is incorporated herein.
9. The Applicants shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent (51%) of the jobs created by the PUD project. After completion of construction of this project, the Applicants shall provide a written status report to the Zoning Commission and the DOES regarding compliance with this agreement. The First-Source Employment Agreement with DOES, submitted into the record as Exhibit 32, is incorporated herein.
10. The change of zoning from unzoned to R-5-A for the PUD Site shall be effective upon the recordation of a covenant as required by 11 DCMR § 2409.3.
11. No building permit shall be issued for the PUD and the PUD-related map amendment shall not become effective until the Applicants have recorded a covenant in the land records of the District of Columbia, between the Applicants and the District of Columbia that is satisfactory to the Office of the Attorney General (formerly the Office of the Corporation Counsel) and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). The covenant shall bind the Applicants and all successors

in title to construct and use the subject property in accordance with this Order, or amendment thereof by the Zoning Commission.

12. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicants have filed a certified copy of the covenant with the Office of Zoning.
13. This final PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, the Applicants shall file for a building permit as specified in 11 DCMR §§ 2408.8 and 2409.1. Construction shall start within three years of the effective date of this Order.
14. The Applicants are required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (the "Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicants to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

For the reasons stated above, the Commission concludes that the Applicant has met the burden of proof, and it is hereby **ORDERED** that the application is **GRANTED**.

Vote of the Zoning Commission taken at its public hearing of this case March 11, 2004, to **APPROVE** by a vote of 4-0-1. The Zoning Commission took final action to adopt this Order at its public meeting of May 10, 2004, by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, Kevin L. Hildebrand, and John G. Parsons to approve; Gregory N. Jeffries not voting, not having participated in the case).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register, that is, on _____.

FLEXIBILITY BEING SOUGHT

PUD	Lot	Square	Lot	Unit Type	Lot Area	Lot Width	FAR	Lot Occupancy	Rear Yard	Side Yard	Parking
	0	5246	81	s	4478						
	1	5246	82	s	4478						
	2	5246	83	s	2250		1.007				
	3	5246	84	r	1650		1.35	46%			
	4	5246	85	r	1650		1.35	46%			
	5	5246	86	s	2250		1.007				
	6	5246	87	s	2550		0.91				
	7	5246	88	r	1870		1.23	42%			
	8	5246	89	r	1870		1.23	42%			
	9	5246	90	s	2550		0.91				
	10	5246	91	s	2250		1.032				
	11	5246	92	r	1650		1.39	47%			
	12	5246	93	r	1650		1.39	47%			
	13	5246	94	s	2280		1.032				
	14	5246	95	s	3637.5						A,C,E
	15	5246	96	r	2750						A,C,E
	16	5246	97	r	2750						A,C,E
	17	5246	98	r	1584		1.45	49%			A,C
	18	5246	99	r	1663		1.36	45%			A,C
	19	5246	100	s	4909						A,C,E
	20	5246	101	s	3030						A,C,E
	21	5246	102	s	2967						A,C,E
	22	5246	103	s	2760						
	23	5246	104	r	2024		1.13				
	24	5246	105	s	2760						
	25	5246	106	g	6899						
	26	5246	107	g	6531						
	27	5246	108	s	2475		0.92				
	28	5246	109	s	2475		0.94				
	29	5246	110	s	2475		0.94				
	30	5246	111	r	1815		1.26	43%			
	31	5246	112	r	1815		1.26	43%			
	32	5246	113	r	1815		1.26	43%			
	33	5246	114	s	2475		0.94				
	34	5246	115	s	2475		0.92				
	35	5246	116	s	3002.5						
	36	5280	214	s	4276						
	37	5280	215	r	2420		0.95				
	38	5280	216	r	2420		0.95				
	39	5280	217	r	2420		0.95				
	40	5280	218	r	2420		0.95				
	41	5280	219	s	4130						
	42	5280	235	s	3450						C
	43	5280	236	r	2750						C
	44	5280	237	s	3438					5.5	C
	45	5280	238	s	2170		1.07			6	A,C,E
	46	5280	239	r	1705		1.34	46%			A,C,E
	47	5280	240	r	1705		1.34	46%			A,C,E
	48	5280	241	r	1705		1.34	46%			A,C,E
	49	5280	242	r	1705		1.34	46%			A,C,E
	50	5280	243	s	2170		1.07			6	A,C,E
	51	5280	220	s	2538						
	52	5280	221	r	1870		1.19				
	53	5280	222	r	1870		1.19				

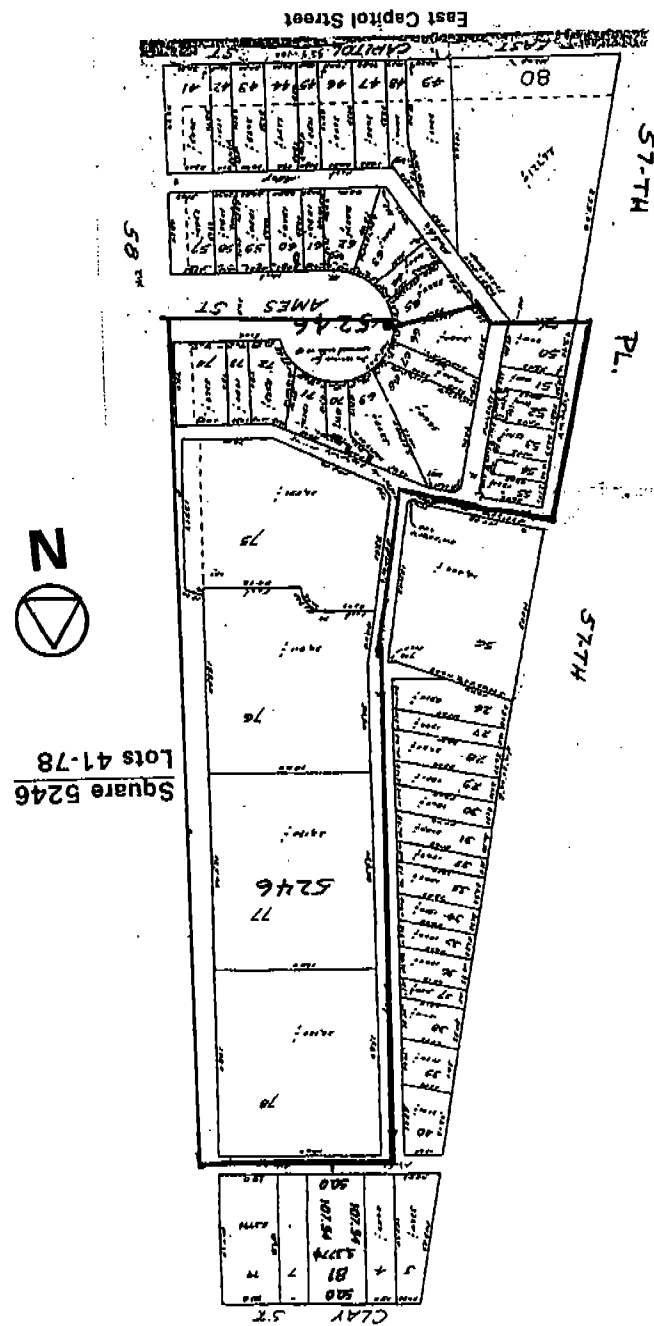
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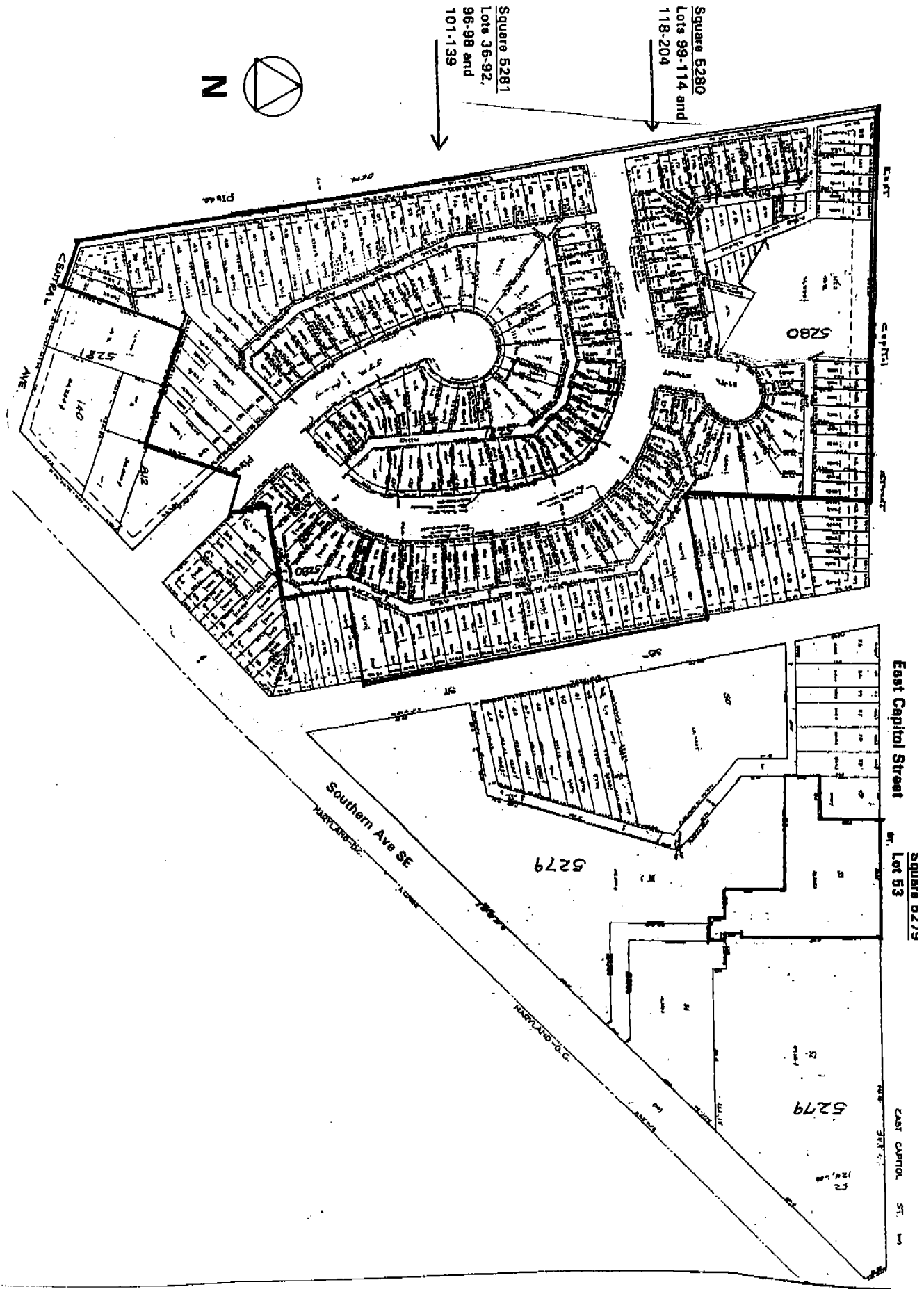
PUD	Lot	Square	Lot	Unit Type	Lot Area	Lot Width	FAR	Lot Occupancy	Rear Yard	Side Yard	Parking
	54	5280	223	r	1870		1.19				
	55	5280	224	s	2538						
	56	5280	225	s	3107						
	57	5280	226	r	1884		1.22	41%			
	58	5280	227	r	1862		1.23	42%			
	59	5280	228	s	2564		0.906				
	60	5280	229	g	6282					2	
	61	5280	230	s	2538		0.915				
	62	5280	231	r	1870		1.23	42%			
	63	5280	232	r	1870		1.23	42%			
	64	5280	233	r	1869		1.23	42%			
	65	5280	234	s	2471		0.94			7	
	66	5280	206	g	8641					3	
	67	5280	213	g	8830					3	
	68	5280	212	s	2765						A,C,E
	69	5280	211	s	2765						A,C,E
	70	5280	210	s	2100		1.11				
	71	5280	209	r	1540		1.49	51%	19		
	72	5280	208	r	1540		1.49	51%	18		
	73	5280	207	s	2773				19		
	74	5281	175	s	2350		0.99				
	75	5281	174	r	1760		1.3	44%			
	76	5281	173	r	1760		1.3	44%			
	77	5281	172	s	2480		0.94				
	78	5281	171	s	4246						A,C,E
	79	5281	170	s	2548						A,C,E
	80	5281	169	s	2548		0.91				A,C,E
	81	5281	168	s	2548						A,C,E
	82	5281	167	s	2925						A,C,E
	83	5281	166	s	3611						A,C,E
	84	5281	165	s	3611						A,C,E
	85	5281	164	s	2925						A,C,E
	86	5281	163	s	2925						A,C,E
	87	5281	162	s	2925						A,C,E
	88	5281	161	s	2925						A,C,E
	89	5281	160	r	2145		1.07				A,C,E
	90	5281	159	r	2145		1.07				A,C,E
	91	5281	158	s	4669						A,C,E
	92	5281	157	s	4673						A,C,E
	93	5281	156	r	2276		1.01				A,C,E
	94	5281	155	r	2459		0.93				A,C,E
	95	5281	154	s	3855						A,C,E
	96	5281	153	s	4237						A,C,E
	97	5281	152	s	4517						A,C,E
	98	5281	151	s	4880						A,C,E
	99	5281	150	r	3684						A,C,E
	100	5281	149	r	3867						A,C,E
	101	5281	148	r	4050						A,C,E
	102	5281	147	s	6017						A,C,E
	103	5281	146	s	2833						A,C,E
	104	5281	145	s	3677				17		A,C,E
	105	5281	144	s	3541						A,C,E
	106	5281	143	s	4028						A,C,E
	107	5281	142	s	4512						A,C,E
	108	5281	141	s	4290						A,C,E
	109	5281	201	s	4740					5	

PUD	Lot	Square	Lot	Unit Type	Lot Area	Lot Width	FAR	Lot Occupancy	Rear Yard	Side Yard	Parking
	110	5281	200	s	3130						
	111	5281	199	s	3130						
	112	5281	198	s	3652						
	113	5281	197	s	7464						A,B
	114	5281	196	r	4342						A,B,C
	115	5281	195	r	4606						A,B,C,E
	116	5281	194	s	6436						A,B,C,E
	117	5281	193	s	6233						A,B
	118	5281	192	s	6025						A,B
	119	5281	191	s	5818						A,B
	120	5281	190	s	5610						A,B
	121	5281	189	s	5420						A,B
	122	5281	188	s	5739					6	A,B
	123	5281	187	s	5508					6	A,B
	124	5281	186	s	5370					6	A,B
	125	5281	185	s	5318					6	A,B
	126	5281	184	s	5172						A,B,C
	127	5281	183	s	4325						A,B,C,E
	128	5281	182	r	3010						A,B,C
	129	5281	181	s	4174					7	A,B
	130	5281	180	s	3806					7	A,B
	131	5281	179	s	3422					7	A,B,C
	132	5281	178	d	6660					7	A,C
	133	5281	177	d	3125						A
	134	5281	176	d	5464					7	A
	135	5281	209	s	3254					7	
	136	5281	208	s	3255					6	
	137	5281	207	d	7375					5	
	138	5281	206	d	7204					5	
	139	5281	205	d	6853					5	
	140	5281	204	d	6547					6	
	141	5281	203	d	6072					6	
	142	5281	202	d	5874				15		
	143	5281	220	s	3521						
	144	5281	219	r	1744		1.31	45%			
	145	5281	218	s	2540		0.92				
	146	5281	217	d	5937						
	147	5281	216	d	6423						
	148	5281	215	d	6586						
	149	5281	214	d	6279						
	150	5281	213	d	5659						
	151	5281	212	s	2636						
	152	5281	211	s	2517		0.9006			6	
	153	5281	210	g	6332					6	
	154	5280	244	g	10502					5	C
	155	5280	245	s	5306					7	A,C,E
	156	5280	246	s	6522						A,C,E
	157	5280	247	s	5158						A,C,E
	158	5280	248	s	4355						A,C,E
	159	5280	249	s	3481					6	A,C,E
	160	5280	250	s	3296					7	A,C,E
	161	5280	251	s	3206					7	A,C,E
	162	5280	252	s	3156					7	A,C,E
	163	5280	253	s	3146					7	A,C,E
	164	5280	254	s	3176					7	A,C,E
	165	5280	255	s	3246						A,C,E

PUD	Lot	Square	Lot	Unit Type	Lot Area	Lot Width	FAR	Lot Occupancy	Rear Yard	Side Yard	Parking
	166	5280	256	s	3357						A,C,E
	167	5280	257	s	3510						A,C,E
	168	5280	258	s	3631						A,C,E
	169	5280	259	s	4243						A,C,E
	170	5280	260	s	4132						A,C,E
	171	5280	262	s	3231						A,C,E
	172	5280	263	r	1988		1.15				A,C,E
	173	5280	264	s	3759				15		A,C,E
	174	5280	265	s	3324						A,B
	175	5280	266	s	2700						A,B
	176	5280	267	s	2700						A,B,C,E
	177	5280	268	r	1980		1.12				A,B,C
	178	5280	269	r	1980		1.12				A,B,C
	179	5280	270	r	1980		1.12				A,B,C,E
	180	5280	271	s	2700						A,B,C,E
	181	5280	272	s	2700						A,B,C
	182	5280	273	r	1980		1.12				A,B,C
	183	5280	274	s	2700						A,B,C,E
	184	5280	275	s	2700						A,B,C,E
	185	5280	276	r	1980		1.12				A,B,C
	186	5280	277	r	1980		1.12				A,B,C
	187	5280	278	r	1980		1.12				A,B,C
	188	5280	279	s	2700						A,B
	189	5280	280	s	2700						A,B
	190	5280	281	r	1980		1.12				A,B,C
	191	5280	282	r	1980		1.12				A,B,C,E
	192	5280	283	s	2925						A,B,C,E
	193	5280	284	s	2925						A,B
	194	5280	285	s	3607						A,B
	195	5279	56	s	5812						
	196	5279	57	r	2948						
	197	5279	58	r	2978						
	198	5279	59	r	2948						
	199	5279	60	s	4020						
	200	5279	61	s	4020						
	201	5279	62	r	2948						
	202	5279	63	r	2948						
	203	5279	64	r	2948						
	204	5279	65	s	4020						
	205	5280	205	c	56192						
Unit Type Legend					Parking Legend						
d Single-Family Detached Dwelling					A Relief from §2117.9(a) for maximum driveway/parking pad width of 10 feet						
s Single-Family Semi-detached Dwelling					B Relief from §2116.4						
r Row dwelling					C Relief from §2117.8(d)						
g "Grandhouse" 4-unit multi-family dwelling					D Relief from §2117.8(c)(1)						
c Community Center/Child Development Center					E Relief from §2117.9(a)						



DEC 31 2004



Zoning Commission Order No. 03-31 (955-A)
Zoning Commission Case No. 03-31/01-09C
(Modification to a Consolidated Planned Unit Development
and Zoning Map Amendment for Station Place)
October 20, 2003

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia was held on October 20, 2003. At the meeting, the Zoning Commission approved an application from Louis Dreyfus Property Group (the "Applicant") for a minor modification to an approved planned unit development ("PUD") and Zoning Map amendment for Station Place, pursuant to Chapter 24 and the Consent Calendar Regulations of Chapter 30 of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. Because the modification was deemed minor, a public hearing was not conducted.

The Commission determined that this modification request was properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

By Zoning Commission Order No. 955, dated February 11, 2002, the Commission approved a PUD and related Zoning Map amendment for property located on the west side of 2nd Street, between F and H Streets, N.E. (the "Site"). The Site consisted of Lots 178 and 179 in Square 720 and is now known as Lots 824, 825, and 826 in Square 720. The office building approved in Zoning Commission Order No. 955 is to have approximately 1,396,950 square feet of gross floor area, not to exceed a density of 5.9 FAR, with a maximum building height of 115.50 feet, as measured from F Street or 89.32 feet as measured from the H Street overpass. The project will provide a minimum of 922 parking spaces.

The Applicant seeks a minor modification to permit the substitution of four (4) water features with sculptures and planters in the courtyards along 2nd Street, N.E., as indicated in the plans submitted with the request for minor modification. The circular water features in the courtyards for Buildings 1 and 2 may be substituted with sculptures. For the courtyard of Building 1, a sculpture depicting a small crowd of people may be constructed in the center of the courtyard in place of the water feature. For the courtyard of Building 2, a sculpture resembling a horizontal body, lying face down and looking forward, may be constructed in the center of the courtyard in place of the water feature. The rectangular water features shown for the courtyards for Buildings 2 and 3 may be replaced with planters.

Z.C. ORDER NO. 03-31 (955-A)

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These changes are requested to allow the Applicant to have the option to introduce art into the area and to create an important public gathering space. In addition, substitution of the water features with sculptures and planters may eliminate the risk of water leaking to the below-grade facilities. Finally, the sculptures and planters will accomplish the same purpose as the water features by providing street animation but are superior as they can be enjoyed year-round.

The requested minor modification does not affect the essential elements of the approval given by the Zoning Commission for this project, including use, height, gross floor area, lot occupancy, setbacks, or number of parking spaces. Additionally, the modification is consistent with the approved elements of the amenity package.

Copies of the Request for Minor Modification were hand-delivered to all parties to the approved PUD, including ANC 6C (the successor ANC to ANC 6A), the Stanton Park Neighborhood Association, the H Street Merchants and Professionals Association, and the Near Northeast Neighborhood Task Force.

On October 20, 2003, at its regular monthly meeting, the Zoning Commission reviewed the application as a Consent Calendar matter and granted approval of the minor modification to the approved PUD.

The Zoning Commission concurs with the Applicant that approving the application is appropriate and is not inconsistent with the intent of 11 DCMR, §§ 2409.9 and 3030.

The Zoning Commission further finds that its decision is in the best interests of the District of Columbia and is consistent with the intent and purpose of the Zone Plan as embodied in the Zoning Regulations and the Zoning Act.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Zoning Commission concludes that the proposed modification is minor and does not change the intent of the previously approved Zoning Commission Order No. 955. Further, the Commission concludes that its decision is in the best interests of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

The approval of the modification is not inconsistent with the Comprehensive Plan. Further, the proposed modification does not impact the essential elements of the approved PUD, including use, height, gross floor area, lot occupancy, setbacks, or number of parking spaces. Other than the potential substitution of the water features with planters and sculptures, no other condition of the approved PUD will be affected. The material facts relied upon by the Commission in approving the PUD in Zoning Commission Order No. 955 have not changed. The modification is minor such that consideration as a Consent Calendar item without public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law provided herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the application for a minor modification of an approved PUD for the property located on the west side of 2nd Street, between F and H Streets, N.E. (now known as Lots 824, 825, and 826 in Square 720). The Applicant shall have the flexibility to substitute sculptures or planters as indicated in the plans marked as Exhibit 1 in the record for any of the four (4) water features.

Pursuant to the intent of 11 DCMR § 2409.3, no building permit shall be issued by the Department of Consumer and Regulatory Affairs ("DCRA") for the minor modification until the Applicant has recorded a "Notice of Modification" of Zoning Commission Order No. 955 with the land records of the District of Columbia. That Notice of Modification shall include true copies of Zoning Commission Order No. 955 along with this Order, which the Director of the Office of Zoning has certified. The recordation of the Notice of Modification shall bind the Applicant and any successors in title to construct on and use the site in accordance with this Order and any amendments thereof.

After recordation of the Notice of Modification, the Applicant shall promptly file a certified copy of the Notice of Modification with the Office of Zoning for the records of the Zoning Commission.

The minor PUD modification shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit for the modification as specified in 11 DCMR §§ 2409.2 and 2409.3 of the Zoning Regulations. Construction of the minor modification shall start within three (3) years of the effective date of this Order. The grant of this minor modification does not relieve the Applicant from complying with the time requirements applicable to the development of this PUD, as stated in Condition 33 of Zoning Commission Order No. 955.

Vote of the Zoning Commission taken at its public meeting on October 20, 2003, by a vote of 4-0-1 (John G. Parsons, Carol J. Mitten, Anthony J. Hood, and Peter G. May to approve; James H. Hannaham, not present, not voting)

In accordance with the provisions of 11 DCMR 3028.8, this Order shall become final and effective upon publication in the D.C. Register; that is on _____.

ZONING COMMISSION ORDER NO. 04-08A
Case No. 04-08A/02-45
(First Stage PUD Modification – St. Elizabeths Hospital)
September 13, 2004

Pursuant to notice, the Zoning Commission for the District of Columbia held a public meeting on September 13, 2004. At the meeting, the Zoning Commission approved an application from the D.C. Department of Mental Health for a minor modification to a planned unit development ("PUD") first stage approval and related map amendment concerning St. Elizabeths Hospital to include certain areas not described in the approved first stage application.

Findings of Fact

By Z.C. Order No. 02-45, dated May 1, 2003, the Zoning Commission for the District of Columbia approved the application of the D.C. Department of Mental Health for first stage review and approval of a PUD and related map amendment filed in order to permit St. Elizabeths Hospital to develop a new mental health hospital, parking, landscaping, stormwater controls, and related facilities. The PUD site that is the subject of Z.C. Order 02-45 consists of approximately 49.4 acres of land area located on an irregularly shaped parcel in the southeast part of the East Campus of St. Elizabeths Hospital. Zoning Commission Order No. 02-45 became final and effective upon publication in the D.C. Register on November 28, 2003, pursuant to 11 DCMR § 3028.

On May 21, 2004, the Zoning Commission voted to set down for hearing an application to grant final approval for the PUD for the same site.

By letter dated June 31, 2004, counsel for the applicant requested a minor modification to Zoning Commission Order No. 02-45 pursuant to § 3030 of the D.C. Zoning Regulations. The letter requested the Zoning Commission to expand the PUD site by 5.19 acres and have the additional land rezoned from unzoned to SP-1, effective upon final PUD approval and the recordation of the covenant required pursuant to Chapter 24. The additional land is contiguous with the southwest edge of the PUD site, fronting Alabama Avenue, S.E. The request indicated that the additional land would be dedicated to a roadway point of access to the hospital from Alabama Avenue, S.E., a gatehouse, and open space. The added property will expand the overall size of the site to 54.59 acres.

Pursuant to 11 DCMR § 3030.11, the Director of the Office of Zoning placed the request for a minor modification on the Commission's Consent Agenda for its public meeting of

Z.C. Order No. 04-08A

Z.C. Case No. 04-08A/02-45

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September 13, 2004. At that meeting, the Commission voted 4-0-1 to approve the modification as a minor modification.

Conclusions of Law

Upon consideration of the record of this application, the Zoning Commission concludes that the D.C. Department of Health's proposed modification is minor and consistent with the intent of the previous first stage PUD approval made in Zoning Commission Order No. 02-45. The Zoning Commission concludes that the proposed modification is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

The approval of the modification is not inconsistent with the Comprehensive Plan. The modification is of such a minor nature that its consideration as a consent calendar item without public hearing is appropriate.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of a minor modification to add the additional 5.19 acres to the site that was approved in PUD Order No. 02-45 including the zone map designation of SP-1. All other provisions and conditions of Zoning Commission Order 02-45 remain in effect.

Decision

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia orders **APPROVAL** of this application for modification to the first stage PUD approval granted in Z.C. Order No. 02-45.

Vote of the Zoning Commission taken at the public meeting on September 13, 2004: **4-0-1** (Anthony J. Hood, Gregory N. Jeffries John G. Parsons, and Kevin Hildebrand to approve; Carol J. Mitten, having recused herself, not voting,).

In accordance with the provisions of 11 DCMR 3028.9, this Order shall become final and effective upon publication in the D.C. Register; that is on _____.

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